APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/702,049	10/30/2000	William J. Flanagan	ET00-007CIP	8546

7590	06/13/2005

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EXAMINER
MEINECKE DIAZ, SUSANNA M

ART UNIT	PAPER NUMBER
3623	

DATE MAILED: 06/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Office Action Summary	09/702,049	FLANAGAN ET AL.
	Examiner	Art Unit	
	Susanna M. Diaz	3623	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *13 January 2005*.

2a)☐ This action is **FINAL**.   2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *2-57* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *2-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date *17*.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____ .

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____ .

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1.   A request for continued examination under 37 CFR 1.114, including the fee set

forth in 37 CFR 1.17(e), was filed in this application after allowance or after an Office

action under *Ex Parte Quayle*, 25 USPQ 74, 453 O.G. 213 (Comm'r Pat. 1935). Since

this application is eligible for continued examination under 37 CFR 1.114, and the fee

set forth in 37 CFR 1.17(e) has been timely paid, prosecution in this application has

been reopened pursuant to 37 CFR 1.114. Applicant's submission filed on January 13,

2005 has been entered.

     The claims are referred to as numbered prior to allowance and include the

previous correction under Rule 1.126. Claims 2-57 are pending.

Priority

2.   This application was filed on October 30, 2000 as a continuation-in-part of

various applications filed on November 16, 1998. It has been determined that all

pending claims contain some continuation-in-part subject matter (i.e., subject matter

that was not disclosed in the parent applications). For example, the recited "dynamic

contracts manager" is not disclosed in the parent applications. Therefore, claims 2-57

are granted a priority date of October 30, 2000 for purposes of applying prior art.

Claim Rejections - 35 USC § 112

3.   The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly
> claiming the subject matter which the applicant regards as his invention.

4.   Claims 2-57 are rejected under 35 U.S.C. 112, second paragraph, as being

indefinite for failing to particularly point out and distinctly claim the subject matter which

applicant regards as the invention.

The scope of the recited "item to be developed" in claim 2 is ambiguous. It is not

clear whether the item to be developed refers to the negotiation contract and/or product

or service being negotiated (as suggested in claims 3 and 4) or whether the "item to be

developed" is a tangible objected that will physically be manufactured according to the

final negotiated terms. However, claim 6 recites "a multimedia transmittal function for

transmitting an item capable of being transmitted in electronic form as the item's

development is being negotiated and performed." This particular recitation raises the

question of whether or not the item is the product or service or the actual negotiations

related to a subject of the negotiations. If the item is a product or service, it is not clear

how it can be transmitted in an electronic form as the item's development is being

negotiated and performed. How can an item that hasn't been completely developed yet

be transmitted electronically during negotiations, especially if it's a physical product or

service to be rendered? Furthermore, claim 12 recites "programming tools for

automating product design and development." Again, is the product the same as the

recited "item"? If so, does the design and development of the product refer to

negotiations related to the product or an actual creation of a physical product to be

manufactured? There are so many inconsistencies throughout the claims that claims 2-

15 are deemed to be vague and indefinite.

Claim 13 recites "computer programs for tracking and analyzing costs and performance data"; however, it is not clear what the costs refer to. Are they negotiated cost terms or costs related to using the negotiations software? Also, relative to whom or what is the "performance data" measured? Is it the performance, or progress, of the negotiations process?

Claims 16-57 recite limitations that are substantially similar to those recited in claims 2-15 above; therefore, the same rejections apply.

Appropriate correction is required.

Due to the extensive nature of the rejections under 35 U.S.C. § 112, 2nd paragraph, the following art rejection reflects Examiner's best understanding of the claimed invention.

Claim Rejections - 35 USC § 102

5.   The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6.   Claims 2-57 are rejected under 35 U.S.C. 102(b) as being anticipated by INSS, as disclosed in the packet of information cited by Applicant as "INSS Negotiation Protocol" (dated September 1, 1998, listed on page 3 of the IDS stamped as received on January 13, 2005).

INSS discloses an apparatus for iterative development negotiations, comprising:

[Claim 2]   a dynamic contracts manager for supplying an initial set of terms for use

by a user, the terms specifying an item to be developed (Pages 6 and 8 -- Setting up the

details of a negotiation, including the product or service to be negotiated, or developed,

as well as the terms subject to negotiation is required); and

a multivariate negotiations system including storage space and negotiations

software (Page 1 -- "INSS is a Web-based negotiation support system"; Pages 10-11,

15 -- A history of offers and messages may be accessed; therefore, offer and message

information must be stored, esp. since it is used to generate a graph of the respective

histories), such negotiations software executing in a processor and including an

automated negotiations engine for analyzing terms, the analysis of terms comprising

understanding the purpose of the terms, formatting the terms according to the purpose,

and placing them into user supplied context for use by a user (Pages 2, 8-13 -- The fact

that the offer history data is maintained, graphed, and used by the negotiation software

to determine if an optimal agreement has been reached or suggest a Pareto-optimal

agreement for both parties is indicative of the fact that INSS itself analyzes and

understands the negotiation terms), the automated negotiations engine being

responsive to a destination terminal for a first user communicating with the multivariate

negotiations system, the destination terminal including software for sending and

receiving terms along a communications path which flows through the multivariate

negotiations system, the automated negotiations engine also being responsive to an

initiating terminal for a second user communicating with the multivariate negotiations

system, the initiating terminal including software for sending and receiving terms along a

communications path which flows through the multivariate negotiations system, during

iterative processing the automated negotiations engine recognizing the users at the

destination terminal and the initiating terminal as negotiators and recognizing one of the

users as a deciding entity (Pages 1, 6, 17 -- Registered users may participate in web-

based negotiations using INSS. Even though each party can send various offers before

receiving a response from the respective counterparty, INSS recognizes which party is

officially waiting for a response, thereby recognizing a relative "deciding entity." See

page 17, item 5 in particular), such automated negotiations engine further recognizing

any changes in the terms and storing in the storage space the terms each terminal

proposes, and recognizing the terminal to which proposal terms are being sent as the

indicated terminal, and sending terms to the indicated terminal, the automated

negotiations engine indicating any changes in the terms until a set of terms is acted

upon in a final manner by the deciding entity (Pages 1-2, 8-13, 16, 17 -- The storage

space, analysis of terms and changes thereof, and recognition of a terminal are

addressed above);

[Claim 3]   wherein the item to be developed comprises a product (Page 8 -- The

aircraft itself is the product to be "developed," or negotiated);

[Claim 4]   wherein the item to be developed comprises a service (Page 8 -- The sale

of the aircraft is the service to be "developed," or negotiated);

[Claim 5]   wherein the dynamic contracts manager further comprises a viewer for

displaying aspects of the item as the item's development is being negotiated and

performed (Pages 11-13 -- Graphs representing the history and progress of the

negotiations process are displayed to each party);

[Claim 6]   wherein the dynamic contracts manager further comprises a multimedia

transmittal function for transmitting an item capable of being transmitted in electronic

form as the item's development is being negotiated and performed (Page 1 -- "INSS is a

Web-based negotiation support system"; therefore, all negotiations terms and

messages related to the negotiated item are transmitted electronically);

[Claim 7]   wherein the dynamic contracts manager further comprises an active

template for supplying some of the initial terms (Pages 9-12 -- The tables showing the

negotiated terms, e.g., price and warranty, are created in response to specified

negotiations terms and serve as active templates for the negotiation process);

[Claim 8]   wherein the active template further comprises predefined formats for

designated terms (Pages 9-12 -- The tables showing the negotiated terms, e.g., price

and warranty, are created in response to specified negotiations terms and serve as

active templates for the negotiation process. INSS is preprogrammed with the proper

format required to display the tables as shown; therefore, INSS is programmed with

predefined formats for the designated terms);

[Claim 9]   wherein the predefined formats further comprise functions for activating

computer programs (Pages 9-13 -- The tables showing the negotiated terms, e.g., price

and warranty, are created in response to specified negotiations terms and serve as

active templates for the negotiation process. INSS is preprogrammed with the proper

format required to display the tables as shown; therefore, INSS is programmed with

predefined formats for the designated terms. The data from the tables is used to create

a negotiations history and generate the graphs, thereby implying that INSS's predefined

formats are utilized to activate the history storage and graphing computer programs);

[Claim 10]   wherein the computer programs further comprise computer programs for

importing and exporting data (Pages 9-13 -- The tables showing the negotiated terms,

e.g., price and warranty, are created in response to specified negotiations terms and

serve as active templates for the negotiation process. INSS is preprogrammed with the

proper format required to display the tables as shown; therefore, INSS is programmed

with predefined formats for the designated terms. The data from the tables is used, or

exported, to create a negotiations history and generate the graphs, i.e., by importing the

data, thereby implying that INSS's predefined formats are utilized to activate the history

storage and graphing computer programs);

[Claim 11]   wherein the computer programs further comprise programming tools for

generating application programs (Pages 9-13 -- The tables showing the negotiated

terms, e.g., price and warranty, are created in response to specified negotiations terms

and serve as active templates for the negotiation process. INSS is preprogrammed with

the proper format required to display the tables as shown; therefore, INSS is

programmed with predefined formats for the designated terms. The data from the

tables is used to create a negotiations history and generate the graphs, thereby

implying that INSS's predefined formats are utilized to generate the history storage and

graphing computer programs);

[Claim 12]   wherein the computer programs further comprise programming tools for

automating product design and development (Page 8 -- The packaged product of an

aircraft with a specified warranty period is designed and developed);

[Claim 13]   wherein the computer programs further comprise computer programs for

tracking and analyzing costs and performance data (Pages 9-12 -- A history of

negotiated prices, or costs, and progress, or performance, of the negotiations process

are analyzing and tracked);

[Claim 14]   wherein the predefined formats further comprise documentation formats to

be used during negotiation and development (Pages 9-13 -- The tables showing the

negotiated terms, e.g., price and warranty, are created in response to specified

negotiations terms and comprise documentation formats for the negotiation process);

[Claim 15]   wherein the dynamic contracts manager further comprises an access

control system for limiting the number of users allowed to participate in the negotiation

of the terms specifying the item to be developed (Page 6 -- In the disclosed example,

INSS requires users to register and limits the negotiation to two parties).

[Claims 16-29]   Claims 16-29 recite limitations already addressed by the rejection

of claims 2-15 above; therefore, the same rejection applies.

[Claims 30-43]   Claims 30-43 recite limitations already addressed by the rejection

of claims 2-15 above; therefore, the same rejection applies.

[Claims 44-57]   Claims 44-57 recite limitations already addressed by the rejection

of claims 2-15 above; therefore, the same rejection applies.

Conclusion

7.   Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susanna M. Diaz whose telephone number is (571) 272-6733. The examiner can normally be reached on Monday-Friday, 10 am - 6 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on (571) 272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susanna M. Diaz
Primary Examiner
Art Unit 3623

June 9, 2005

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